

AMENDED IN ASSEMBLY APRIL 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1228

Introduced by Assembly Member V. Manuel Pérez

February 22, 2013

An act to amend Section 2827.10 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1228, as amended, V. Manuel Pérez. Electricity: eligible fuel cell customer-generators.

Existing law establishes a net energy metering program that is available to an eligible fuel cell customer-generator, which is defined as a customer of an electrical corporation and, among other things, uses a fuel cell electrical generating facility with capacity of not more than one megawatt. Existing law requires that the net metering calculation be made by measuring the difference between the electricity supplied to the eligible fuel cell customer-generator and the electricity generated by the eligible fuel cell customer-generator and fed back to the electrical grid over a 12-month period. Existing law requires that an electrical corporation determine if the eligible fuel cell customer-generator was a net consumer or producer of electricity during the 12-month period. For purposes of making this determination, existing law requires that the electrical corporation aggregate the electrical load of the eligible fuel cell customer-generator under the same ownership.

This bill would increase the capacity of a fuel cell electrical generating facility to not more than 3 megawatts. *The bill would prohibit the net rate at which electricity fed back to the electrical grid by an eligible fuel cell customer-generator using a fuel cell electrical generating*

facility with a capacity of more than one megawatt from exceeding one megawatt.

Existing law provides that a net energy metering contract or tariff must be identical, as specified, to the contract or tariff to which a customer would be assigned if the customer was not an eligible fuel cell customer-generator, and that any charge that would increase an eligible fuel cell customer-generator's costs beyond those of other customers in the rate class to which the eligible fuel cell customer-generator would otherwise be assigned, including an interconnection charge, may not form a part of net energy metering tariffs. The Public Utilities Commission's Electric Rule 21 establishes a tariff that describes the interconnection, operating, and metering requirements for generation facilities to be connected with an electrical corporation's distribution system.

This bill would provide that fuel cell projects with a capacity of not more than one megawatt would not be exempt from reasonable interconnection charges established pursuant to Electric Rule 21. The bill would also require the commission, when revising Electric Rule 21, to consider the ratepayer and system benefits of larger baseload fuel cell projects.

Because the bill would require an expansion of the above-described net energy metering programs and would require an order or decision of the commission to implement, a violation of which is a crime, these provisions would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2827.10 of the Public Utilities Code is
- 2 amended to read:
- 3 2827.10. (a) As used in this section, the following terms have
- 4 the following meanings:

1 (1) “Electrical corporation” means an electrical corporation, as
2 defined in Section 218.

3 (2) “Eligible fuel cell electrical generating facility” means a
4 facility that includes the following:

5 (A) Integrated powerplant systems containing a stack, tubular
6 array, or other functionally similar configuration used to
7 electrochemically convert fuel to electric energy.

8 (B) An inverter and fuel processing system where necessary.

9 (C) Other plant equipment, including heat recovery equipment,
10 necessary to support the plant’s operation or its energy conversion.

11 (3) (A) “Eligible fuel cell customer-generator” means a
12 customer of an electrical corporation that meets all the following
13 criteria:

14 (i) Uses a fuel cell electrical generating facility with a capacity
15 of not more than three megawatts that is located on or adjacent to
16 the customer’s owned, leased, or rented premises, is interconnected
17 and operates in parallel with the electrical grid while the grid is
18 operational or in a grid independent mode when the grid is
19 nonoperational, and is sized to offset part or all of the eligible fuel
20 cell customer-generator’s own electrical requirements.

21 (ii) Is the recipient of local, state, or federal funds, or who
22 self-finances projects designed to encourage the development of
23 eligible fuel cell electrical generating facilities.

24 (iii) Uses technology the commission has determined will
25 achieve reductions in emissions of greenhouse gases pursuant to
26 subdivision (b), and meets the emission requirements for eligibility
27 for funding set forth in subdivision (c), of Section 379.6.

28 (B) For purposes of this paragraph, a person or entity is a
29 customer of the electrical corporation if the customer is physically
30 located within the service territory of the electrical corporation
31 and receives bundled service, distribution service, or transmission
32 service from the electrical corporation.

33 (4) “Net energy metering” means measuring the difference
34 between the electricity supplied through the electrical grid and the
35 difference between the electricity generated by an eligible fuel cell
36 electrical generating facility and fed back to the electrical grid over
37 a 12-month period as described in subdivision (e). Net energy
38 metering shall be accomplished using a time-of-use meter capable
39 of registering the flow of electricity in two directions. If the existing
40 electrical meter of an eligible fuel cell customer-generator is not

1 capable of measuring the flow of electricity in two directions, the
2 eligible fuel cell customer-generator shall be responsible for all
3 expenses involved in purchasing and installing a meter that is able
4 to measure electricity flow in two directions. If an additional meter
5 or meters are installed, the net energy metering calculation shall
6 yield a result identical to that of a time-of-use meter.

7 (b) (1) Every electrical corporation, not later than March 1,
8 2004, shall file with the commission a standard tariff providing
9 for net energy metering for eligible fuel cell customer-generators,
10 consistent with this section. Subject to the limitation in subdivision
11 (f), every electrical corporation shall make this tariff available to
12 eligible fuel cell customer-generators upon request, on a
13 first-come-first-served basis, until the total cumulative rated
14 generating capacity of the eligible fuel cell electrical generating
15 facilities receiving service pursuant to the tariff reaches a level
16 equal to its proportionate share of a statewide limitation of 500
17 megawatts cumulative rated generation capacity served under this
18 section. The proportionate share shall be calculated based on the
19 ratio of the electrical corporation's peak demand compared to the
20 total statewide peak demand.

21 (2) To continue the growth of the market for onsite electric
22 generation using fuel cells, the commission may review and
23 incrementally raise the limitation established in paragraph (1) on
24 the total cumulative rated generating capacity of the eligible fuel
25 cell electrical generating facilities receiving service pursuant to
26 the tariff in paragraph (1).

27 (c) In determining the eligibility for the cumulative rated
28 generating capacity within an electrical corporation's service
29 territory, preference shall be given to facilities that, at the time of
30 installation, are located in a community with significant exposure
31 to air contaminants or localized air contaminants, or both,
32 including, but not limited to, communities of minority populations
33 or low-income populations, or both, based on the ambient air
34 quality standards established pursuant to Section 39607 of the
35 Health and Safety Code.

36 (d) (1) Each net energy metering contract or tariff shall be
37 identical, with respect to rate structure, all retail rate components,
38 and any monthly charges, to the contract or tariff to which the
39 customer would be assigned if the customer was not an eligible
40 fuel cell customer-generator. Any new or additional demand

1 charge, standby charge, customer charge, minimum monthly
2 charge, interconnection charge, or other charge that would increase
3 an eligible fuel cell customer-generator's costs beyond those of
4 other customers in the rate class to which the eligible fuel cell
5 customer-generator would otherwise be assigned are contrary to
6 the intent of the Legislature in enacting this section, and may not
7 form a part of net energy metering tariffs.

8 *(2) Notwithstanding the provisions of this section, fuel cell*
9 *projects with a capacity of not more than one megawatt shall not*
10 *be exempt from reasonable interconnection charges established*
11 *pursuant to the commission's Electric Rule 21.*

12 *(3) When considering revisions to the commission's Electric*
13 *Rule 21 interconnection tariff, the commission shall consider the*
14 *ratepayer and systems benefits of larger baseload fuel cell projects.*

15 ~~(2)~~

16 (4) The commission shall authorize an electrical corporation to
17 charge a fuel cell customer-generator a fee based on the cost to
18 the utility associated with providing interconnection inspection
19 services for that fuel cell customer-generator.

20 (e) The net metering calculation shall be made by measuring
21 the difference between the electricity supplied to the eligible fuel
22 cell customer-generator and the electricity generated by the eligible
23 fuel cell customer-generator and fed back to the electrical grid
24 over a 12-month period. The following rules shall apply to the
25 annualized metering calculation:

26 (1) The eligible fuel cell customer-generator shall, at the end
27 of each 12-month period following the date of final interconnection
28 of the eligible fuel cell electrical generating facility with an
29 electrical corporation, and at each anniversary date thereafter, be
30 billed for electricity used during that period. The electrical
31 corporation shall determine if the eligible fuel cell
32 customer-generator was a net consumer or a net producer of
33 electricity during that period. For purposes of determining if the
34 eligible fuel cell customer-generator was a net consumer or a net
35 producer of electricity during that period, the electrical corporation
36 shall aggregate the electrical load of the meters located on the
37 property where the eligible fuel cell electrical generation facility
38 is located and on all property adjacent or contiguous to the property
39 on which the facility is located, if those properties are solely
40 owned, leased, or rented by the eligible fuel cell

1 customer-generator. Each aggregated account shall be billed and
2 measured according to a time-of-use rate schedule.

3 (2) At the end of each 12-month period, where the electricity
4 supplied during the period by the electrical corporation exceeds
5 the electricity generated by the eligible fuel cell customer-generator
6 during that same period, the eligible fuel cell customer-generator
7 is a net electricity consumer and the electrical corporation shall
8 be owed compensation for the eligible fuel cell
9 customer-generator's net kilowatthour consumption over that same
10 period. The compensation owed for the eligible fuel cell
11 customer-generator's consumption shall be calculated as follows:

12 (A) The generation charges for any net monthly consumption
13 of electricity shall be calculated according to the terms of the tariff
14 to which the same customer would be assigned to or be eligible
15 for if the customer was not an eligible fuel cell customer-generator.
16 When the eligible fuel cell customer-generator is a net generator
17 during any discrete time-of-use period, the net kilowatthours
18 produced shall be valued at the same price per kilowatthour as the
19 electrical corporation would charge for retail kilowatthour sales
20 for generation, exclusive of any surcharges, during that same
21 time-of-use period. If the eligible fuel cell customer-generator's
22 time-of-use electrical meter is unable to measure the flow of
23 electricity in two directions, paragraph (4) of subdivision (a) shall
24 apply. All other charges, other than generation charges, shall be
25 calculated in accordance with the eligible fuel cell
26 customer-generator's applicable tariff and based on the total
27 kilowatthours delivered by the electrical corporation to the eligible
28 fuel cell customer-generator. To the extent that charges for
29 transmission and distribution services are recovered through
30 demand charges in any particular month, no standby reservation
31 charges shall apply in that monthly billing cycle.

32 (B) The net balance of moneys owed shall be paid in accordance
33 with the electrical corporation's normal billing cycle.

34 (3) At the end of each 12-month period, where the electricity
35 generated by the eligible fuel cell customer-generator during the
36 12-month period exceeds the electricity supplied by the electrical
37 corporation during that same period, the eligible fuel cell
38 customer-generator is a net electricity producer and the electrical
39 corporation shall retain any excess kilowatthours generated during

1 the prior 12-month period. The eligible fuel cell customer-generator
2 shall not be owed any compensation for those excess kilowatthours.

3 (4) If an eligible fuel cell customer-generator terminates service
4 with the electrical corporation, the electrical corporation shall
5 reconcile the eligible fuel cell customer-generator's consumption
6 and production of electricity during any 12-month period.

7 (f) No fuel cell electrical generating facility shall be eligible for
8 the tariff unless it commences operation prior to January 1, 2015,
9 unless a later enacted statute, that is chaptered before January 1,
10 2015, extends this eligibility commencement date. The tariff shall
11 remain in effect for an eligible fuel cell electrical generating facility
12 that commences operation pursuant to the tariff prior to January
13 1, 2015. A fuel cell customer-generator shall be eligible for the
14 tariff established pursuant to this section only for the operating
15 life of the eligible fuel cell electrical generating facility.

16 (g) *For an eligible fuel cell customer-generator using a fuel*
17 *cell electrical generation facility with a capacity of more than one*
18 *megawatt, the net rate at which the electricity is fed back to the*
19 *electrical grid shall not exceed one megawatthour.*

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.